

MEMO ENDORSED

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November 9, 2020

Via Electronic Filing

Honorable Katherine Polk Failla
United States District Court, S.D.N.Y.
300 Quarropas Street
White Plains, NY 10601

Re: Testa's Leasing, Inc. v. Pomona Lane Partners, LLC, et al
United States District Court, Civil Action.: 7:20-cv-03781 (KPF)

Dear Honorable Madam:

We represent the Defendants in the above-referenced matter and it is in this capacity that write in response to Mr. Langer's November 2, 2020 letter.

First of all, in Mr. Langer's letter, he references that on September 23, 2020 he provided me with Rule 26 Initial Disclosures on behalf of the Plaintiff. I did not receive any such Initial Disclosures from Mr. Langer on September 23, 2020. I did receive a letter to the Court from Mr. Langer on September 24, 2020 in which he claims that he "reached out to me" which he did but only the day prior. I did receive a phone call from Mr. Langer on September 23, 2020 the date our proposed Scheduling Order was due to the Court. Mr. Langer thereafter emailed me at 2:33pm on September 23, 2020 indicating that he wanted to discuss the Scheduling Order. The next day, September 24, 2020, the proposed Scheduling Order was submitted to the Court. I do not believe I ever received Mr. Langer's Rule 26(a)(1) Initial Disclosures.

Mr. Langer wrongly indicates that I failed to comply with the Court's June 1st Order. Mr. Langer was included on the Complaint which was filed on May 15, 2020. However, Mr. Langer did not formally appear in this case until September 23, 2020 and his predecessor, Jeffrey McCraw, never reached out to me to confer about the Scheduling Order. It was not until the day Mr. Langer appeared (09/23/20) that he first reached out to me.

Mr. Langer wishes to spin my late appearance on September 30, 2020 as if I ignored the Court's conference. As I explained at the time, I was under the impression that an attorney from my office was appearing and due to the fact that we were both working remotely, I did not realize the mistake until ten minutes or so after the conference was supposed to begin. An unfortunate mistake but certainly not done intentionally.

I assure this Honorable Court that we are not trying to delay this case in the least. We are interested in moving this case forward as much as the Plaintiff is.

I met with the Defendants over this past weekend to discuss our response to the Initial Disclosures and to start putting together our discovery responses. A copy of the Defendants initial disclosures are annexed herewith. We are in the process of putting together responses to the Defendants Demand for Discovery and shall be able to comply by the statutory due date. We plan on producing all dispositive documentation in response to Mr. Langer's Demand for Discovery. There is nothing that he would have asked for that we are not providing in discovery.

I respectfully submit that sanctions are not warranted in this case. I desire to work with Mr. Langer to move this case towards discovery completion. I do not see that this case shall be delayed by anything that has transpired to date.

Respectfully Submitted,

CONDON & MARA, PLLC

By: _____ /s/ _____
Brian K. Condon

Encls.

cc: Michael J. Langer, Esq.

The Court is in receipt of Plaintiff's letter dated November 2, 2020 (Dkt. #24), and Defendants' above reply (Dkt. #25). Plaintiff's request for a conference is GRANTED. The parties are hereby ORDERED to appear for a teleconference on **November 13, 2020, at 3:30 p.m.** The parties shall call (888) 363-4749 and enter access code 5123533#. Please note, the conference will not be available prior to 3:30 p.m.

Dated: November 10, 2020
New York, New York

SO ORDERED.

Katherine Pelt Fawcett

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE